



Battle Creek Zoning Board of Appeals

Staff Report

Meeting: September 13, 2011
Appeal #Z-10-11

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Subject: Petition for a dimensional variance (Z-10-11) to permit the construction of an addition to a detached accessory building on property located at 32 W. Bidwell Street.

Summary

This report addresses a petition from Jerry H. and Kathy J. Montague, seeking approval of a Dimensional Variance (Z-10-11), to construct an addition to a detached accessory building which would; a) create an accessory building exceeding 10% of the total lot area in size, b) exceed 50% of rear yard coverage, c) exceed 30% of total lot coverage, and d) exceed the 1,500 sq.ft. maximum size for an accessory building on residential zoned properties, on property located at 32 W. Bidwell Street.

Background/Project Information

The subject site is located at 32 W. Bidwell Street. The subject lot is an interior lot and is zoned R-1C "Single Family Residential" District. The subject lot is 40' wide x 132' deep and is 5,280 sq.ft. in size. The subject lot meets the minimum lot area of 5,000 sq.ft for the R-1C zone but it does not meet the minimum lot width of 50 feet. Our records show that the residential structure was constructed in 1920 and the existing 308 sq. ft. detached garage was constructed in 2003. The request is to add a 1,428 sq.ft. addition to the existing 308 sq.ft. garage (1,736 sq.ft total area) to provide additional storage space and a workshop. Chapter 1286 allows for accessory buildings on residentially zoned properties but the code limits the size of accessory buildings based on the size of the lot. Chapter 1286.03 limits the size of accessory buildings by allowing the building to be no larger than 10% of the total land area of the lot, allowing accessory buildings to occupy no more than 50% of a rear yard, and limiting the maximum size of accessory buildings to 1,500 sq.ft. Chapter 1280 further limits the building coverage of lots located in the R-1C zone to 30%.

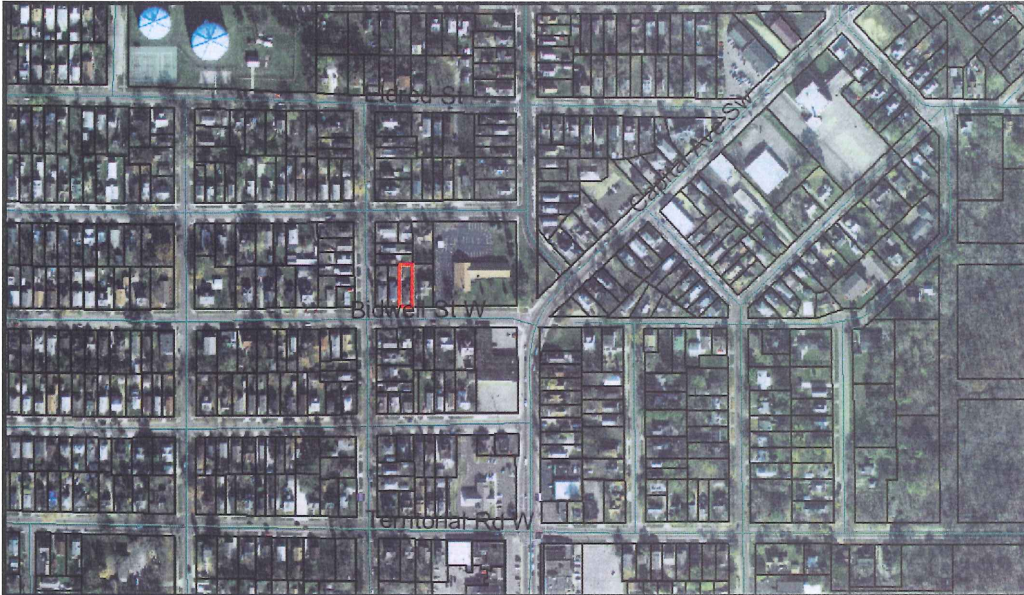
Legal Description

HIGHLAND PARK E 40 FT OF LOTS 75-78

Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, August 25, 2011, not less than the 15 days before the hearing as required by State Law and ordinance.

Notices of the public hearing were also sent by regular mail on August 22, 2011, to 70 property owners and occupants located within 300 feet of the subject parcel. The Appellant has supplied two letters of support for the requests as part of the application packet.



Aerial Photograph of the Subject Site

Surrounding Land Uses

The subject property is located in a residential neighborhood off Capital Ave. SW just north of W. Territorial Road.

Applicable Zoning Ordinance Provisions

Chapter 1234.04

(b) The Board shall have the authority to grant the following variations:

- (1) **Nonuse.** If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125.3101 et seq.; and [MCL 125.3604(7) and (8).]

Analysis

The Appellant is requesting a variance at 32 W. Bidwell Street that would authorize the construction of an addition to a detached accessory building, contrary to limitations outlined in chapter 1286 and 1280 of the Planning and Zoning Code. The Appellant has stated in the supporting material that the lots in the area are small and it is already a nonconforming lot. The Appellant has supplied additional reasons supporting the request for appeal and they are included with the application and part of this report. A sketch of the property with the proposed improvements has been provided. There is also a note on the sketch that says "may purchase 10' property from 28 West Bidwell".

Is there something unique about this lot or property that makes relief necessary? We would agree that the lot is a nonconforming lot due to its 40' width. We also believe that even if the Appellant were able to acquire an additional 10' of property to the east, the request would still require variances for the size of the building (limited to 1,500 sq.ft.), total lot coverage (limited to 30%), and rear lot coverage (limited to 50%).



Findings and Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we do not believe that each condition can be justified in an affirmative manner. We have provided a rationale for each condition set forth below for Dimensional Variances. Therefore, the Planning staff recommends that the Zoning Board of Appeals deny the Dimensional Variance (Z-10-11) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does not exist if the strict requirement of the Ordinance is applied to this specific building project. We believe that the practical difficulty associated with this request does not include substantially more than a mere inconvenience in this case in that the lot will be overbuilt with the addition by exceeding the total lot coverage and rear yard coverage for lots in the R-1C zone.
- B) Staff believes that the practical difficulty associated with this request is self created. The ordinance allows for accessory buildings on residentially zoned property and this particular parcel has a 308 sq.ft. accessory building located on it.

C)Staff believes that this variance request will alter or conflict with the intent of the Ordinance considering the public benefits to be secured by the Zoning Code.

D)Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the Applicant. In this case, Staff does not believe the test for practical difficulty associated to the property has been met by the Appellant.

Attachments

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-10-11)
2. A sketch drawing of the proposed project
3. Two letters of support for the request supplied by the Appellant
4. Four photos of various accessory buildings supplied by the Appellant
5. General property information from the Assessing Department database

Date: 8-17-11

Appeal No. 2-10-11

APPLICATION FOR A VARIANCE
ZONING BOARD OF APPEALS

City of Battle Creek, Michigan

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Jerald H. and Kathy J Montague

Address: 32 West Bidwell Street Phone: 269-788-7679

Name of Owner (if different from Appellant): _____

Address: _____ Phone: _____

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
(Choose One) Extend Erect Waive Use Convert Enclose

Description: NEW GARAGE AND WORKSHOP IN BACKYARD TYING INTO
THE SINGLE CAR GARAGE THAT IS IN PLACE NOW

Contrary to the requirements of Section(s) 1286.03(A)(B)(C), + 1280.01 of the Planning and Zoning Code, upon the premises known as # 32 W. Bidwell St. Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):
TAKING UP MORE THAN 50% BACKYARD, ALREADY ON A NON-
CONFORMING LOT

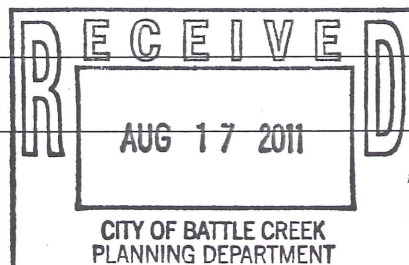
Property/Tax I.D. # No. 4040 - 00 - 078 - 0 Size of the Lot: Width 40'10" Depth 131'

Size of Proposed Building: Width 43' Depth 31' Height 20'14"

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

TAKE UP 50% BACK YARD, BE BIGGER THAN THE HOUSE RATIO
HOUSE APPROX 1100 SQFT



(b.) This problem is due to a unique situation not shared in common with nearby property owners because:

The lots in this area are small. It is already a non-conforming lot. A truck has been broken into three different times.

(c.) Granting the variance would not alter the essential character of the area because:

IT'S IN THE BACKYARD, AND IT'S JUST A OVERSIZE GARAGE AND WORKSHOP, HOME OWNERS NEXT DOOR WILL LET ME GET 10' MORE OF THE PROPERTY IN ORDER TO BUILD.

(d.) The problem is not self-created because:

Got the ok to add a Double size garage to the existing garage. By the time you put a driveway in it would take up the back yard. So more practical to make it bigger and close the area in and incorporate the workshop

(e.) USE VARIANCES ONLY It is not possible to use this particular property for any other use currently allowed in the zoning district because:

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

JERALD MONTAGUE
(Print Appellant Name)

(Signature of Appellant)

32 WEST BIDWELL ST. BATTLE CREEK MI. 49015
(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.

Property Lot 140' x 40'.

Two Existing Structures -
House (47' x 28.5') &
Garage (14.25' x 22.25')

West side (shared drive)
property center line is 7'
from house.

South side, front of porch to
center line of West Bidwell
Street is 56'

East side of house is offset
4' from property line.

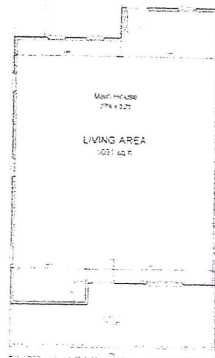
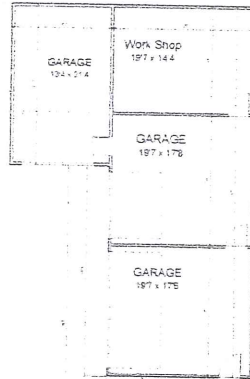
North side is offset 3' to
back of existing garage.

Propose Three bay garage
20' x 51'.

Hashed walls indicate new
construction.

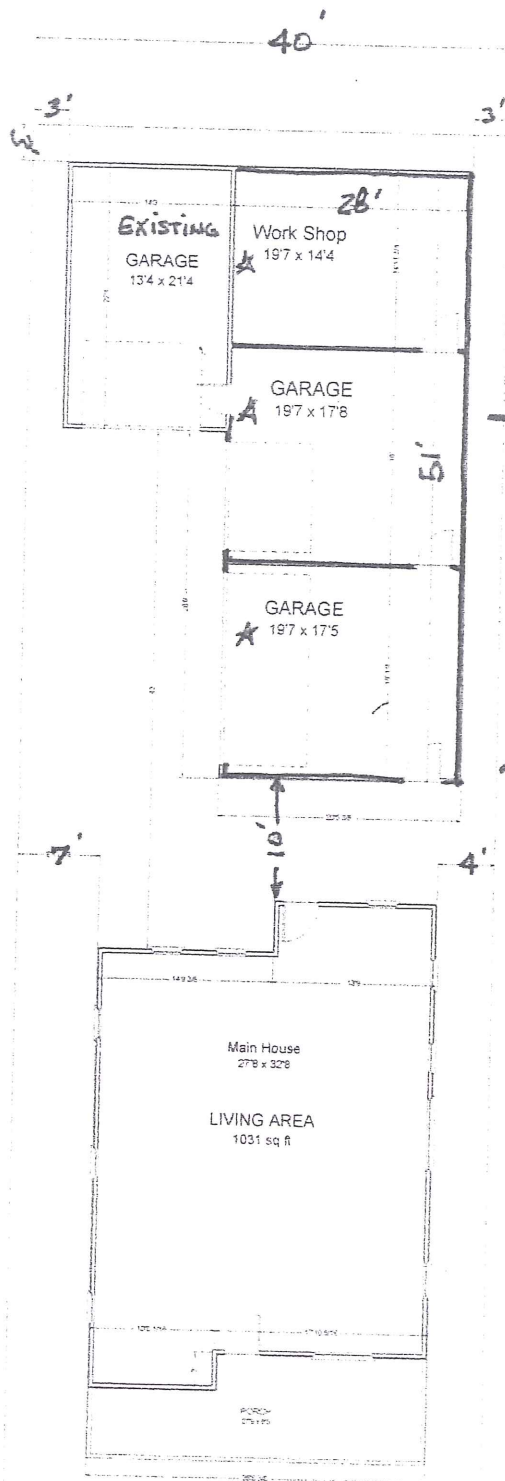
Proposed Construction
2 x 4 walls with 7/16 OSB
Sheathing
2 x 4 Roof Trusses - 2' o.c.
with 7/16 OSB decking
Vinyl Siding and soffit.
Overhead Doors and
Passage door.

Jerry Montague
32 West Bidwell Street
Battle Creek, Michigan 49015



Center Line of Street

Bidwell Street



Plot Plan

NEW

Property Line

140'

Jerry Montague
32 W. Bidwell
Battle Creek, MI 49015

56' TO CL

★
MAY PURCHASE -
10' PROPERTY FROM
28 WEST BIDWELL
NEW GARAGE DEPTH
28'

Bidwell Street

To whom it may concern,

I live at 36 W. Bidwell St. I have a shared driveway with Jerry and Kathy Montague at 32 W. Bidwell St. Any addition to their garage or even a new, larger structure is fine with me. If you have any questions please call (269)589-9774.

Michael A. Shaw

Joel and Elizabeth Fulton
28 West Bidwell Street
Battle Creek, MI 49015

August 8, 2011

Battle Creek City Planning Commission

Dear Planning Commission:

As many of you are well aware, good neighbors are hard to find and when you have them, you want to keep them. Jerry Montague has been our neighbor for over 15 years and currently is in need of a variance to build a larger garage / workshop on his property. The property most affected by this variance is ours. Jerry has been and continues to be an outstanding neighbor and we would very much like for this variance to be granted.

Kind Regards,



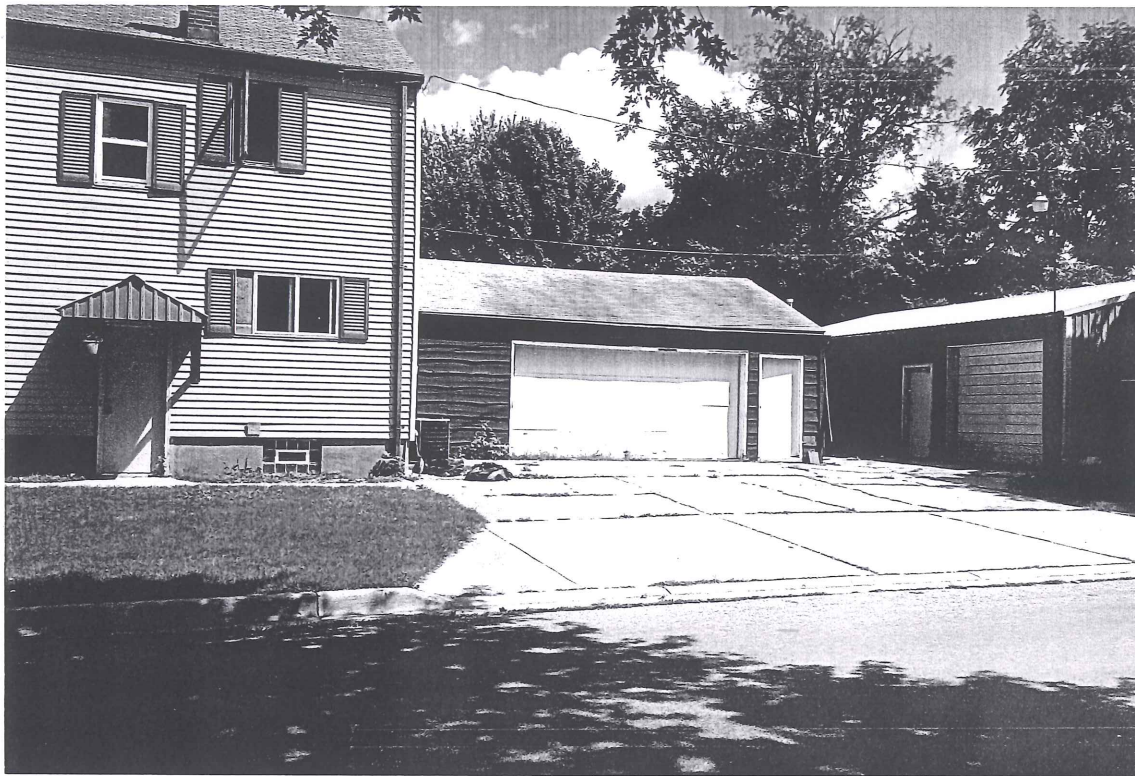
Joel E. Fulton
President, Southside Sportsman Club
President, Freedom Firearms

269-420-0076

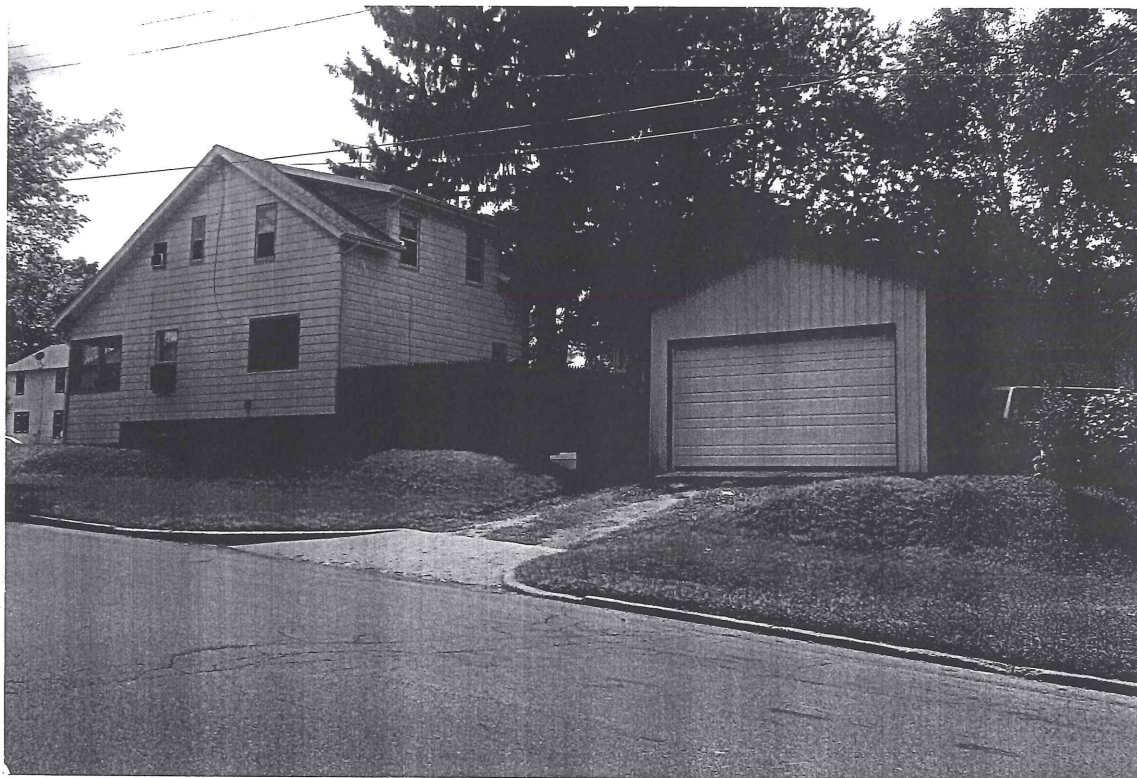


Elizabeth P Fulton
Battle Creek City Commissioner
Ward 4

269-420-8714



Corner
Bedman Ave
+
West Burnham
St.



Corner
Fair home Ave
+
West Burnham
Ave



Corner
Fairhome Ave.
+
Burr Street.



109 West
Bidwell St.

General Property Information

[Back to Non-Printer Friendly Version] [Send To Printer]

Parcel: 4040-00-078-0 **Unit:** CITY OF BATTLE CREEK**Property Address**

[collapse]

32 W BIDWELL ST
BATTLE CREEK, MI 49015-2626**Owner Information**

[collapse]

MONTAGUE, JERALD H
N/A**Unit:** 52**Taxpayer Information**

[collapse]

MONTAGUE, JERALD H
32 BIDWELL ST W
BATTLE CREEK, MI 49015-2626**General Information for Tax Year 2011**

[collapse]

Property Class:	401	Assessed Value:	\$29,676
School District:	13020 - BATTLE CREEK SCHOOLS	Taxable Value:	\$29,676
State Equalized Value:	\$29,676	Map #	611SE
User Number Indx:		Date of Last Name Chg:	12/27/2000
		Date Filed:	
		Notes:	N/A

Principal Residence Exemption	May 1st	Final
		-
2011	100.0000 %	100.0000 %

Previous Year Info	MBOR Assessed	Final S.E.V.	Final Taxable
2010	\$29,676	\$29,676	\$29,317
2009	\$41,650	\$41,650	\$29,406

Land Information

[collapse]

	Frontage	Depth
Lot 1:	40.00 Ft.	132.00 Ft.
Lot 2:	0.00 Ft.	0.00 Ft.
Lot 3:	0.00 Ft.	0.00 Ft.
Total Frontage:	40.00 Ft.	Average Depth: 132.00 Ft.

Total Acreage:	0.12		
Zoning Code:	R1C		
Land Value:	\$2,000	Mortgage Code:	N/A
Land Improvements:	\$0	Lot Dimensions/Comments:	
Renaissance Zone:	NO		

Renaissance Zone Expiration**Date:****ECF Neighborhood Code:** 20900 - 20900 BC SW**Legal Information for 4040-00-078-0**[\[collapse\]](#)

HIGHLAND PARK E 40 FT OF LOTS 75-78

Sales Information**1 sale record(s) found.**

Sale Date	Sale Price	Instrument	Grantor	Grantee	Terms Of Sale	Liber/Page
03/05/1997	\$23,000.00	09	CHILDS	MONTAGUE ('88 LC)	09 LC FULFILLMENT	1919/782

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